

1 Q. Well, I think you've
2 answered my question.

3 A. Okay. Okay.

4 MR. PHILLIPS: I'm going to
5 pass the witness to Ms. White. I
6 have no further questions.

7 EXAMINATION

8 BY MS. WHITE:

9 Q. My name is Pamela White and
10 I represent Ms. Koch and I've represented
11 her at least since April of 1998 when I
12 corresponded with Mr. Landau representing
13 LA Weight Loss at that time.

14 When did you learn that Ms.
15 Koch was making a claim against LA Weight
16 Loss?

17 A. I don't remember when I
18 learned of it.

19 Q. When did you learn that she
20 was represented by counsel?

21 A. I don't remember when.

22 Q. You became general manager

410 1 your birth date is March 13th?

2 A. Yes.

3 Q. If my arithmetic at this
4 late hour is correct, you are 32 years
5 old right now?

6 A. Yes.

7 Q. And you turned 27 on March
8 13th, 1998?

9 A. I assume your arithmetic is
10 right. Yes.

11 Q. Do you recall celebrating or
12 marking your 27th birthday in any
13 particular fashion on March 13th, 1998?

14 A. No.

15 Q. You got a number of bonuses,
16 according to this document, Exhibit 2, in
17 April of 1998. Do you recall buying
18 yourself a present or spending the bonus
19 in a particular fashion in celebration of
20 your 27th birthday or for any other
21 reason?

22 A. No, I don't remember doing
23 that.

24 Q. Did you go on any trips when

411 1 in the summer of '98?

2 A. Yes.

3 Q. Were you advised at that
4 time of the existence of a claim by Ms.
5 Koch?

6 A. I don't remember.

7 Q. Were you informed to the
8 best of your recollection, either in your
9 capacity as general manager or in your
10 prior capacity as training director, of
11 the importance of retaining documents
12 associated with Ms. Koch's employment?

13 A. I don't recall that.

14 Q. I'm asking that because
15 there is a legal responsibility on the
16 part of the company and its counsel and
17 its corporate officials to retain
18 documents when they know that there's a
19 claim outstanding arising under Title
20 VII. Does that assist you to refresh
21 your recollection?

22 A. No. Really, I don't
23 remember.

24 Q. You stated this morning that

412 1 you were 26, heading to 27 years old?

2 A. I went on trips almost every
3 year of my life.

4 Q. Did you go on any trips in
5 January, February, March of 1998?

6 A. I don't remember. I'd have
7 to look at my records.

8 Q. The context in which I'm
9 asking is --

10 A. I have no idea where I was.

11 Q. I'm sorry?

12 A. I'm sorry. I don't remember
13 taking a trip particularly that year.
14 But I have pictures and records of where
15 I was and what vacations I've taken.

16 Q. Did you maintain any diaries
17 where a record of a trip or your birthday
18 celebration would have been recorded?

19 A. No.

20 Q. Do you correspond with
21 friends or colleagues or family members
22 about birthday celebrations or trips or
23 special events?

24 A. Usually I celebrate with my

KRISTI O'BRIEN

1 family.
 2 Q. Do you maintain any notes or
 3 records or diaries of those kinds of
 4 celebrations?
 5 A. No.
 6 Q. Do you keep any Day-Timers,
 7 calendars? Did you in 1998?
 8 A. Yes.
 9 Q. And what happened to that
 10 Daytimer or diary, calendar?
 11 A. I don't know. I probably
 12 threw it out.
 13 Q. And you don't recall that
 14 anyone, Mr. Landau included, instructed
 15 that you should preserve your diaries and
 16 records as a supervisor of Kathy Koch at
 17 that time?
 18 A. My personal travel records
 19 or --
 20 Q. Any personal diaries of any
 21 kind.
 22 A. I don't remember that
 23 conversation, no.
 24 Q. Do you remember the first

414
 1 THE WITNESS: I don't
 2 remember.
 3 BY MS. WHITE:
 4 Q. To the best of your
 5 recollection, what documents did you
 6 review in preparation for your deposition
 7 today?
 8 MR. LANDAU: Now, don't
 9 answer that question.
 10 MS. WHITE: She started to
 11 say I think, and I want to test
 12 this witness' recollection, which
 13 has been abysmal about substantive
 14 matters. I can at least test her
 15 about the documents.
 16 MR. LANDAU: You can show
 17 her documents and ask her if she
 18 reviewed them individually. But
 19 to ask her generally what
 20 documents she reviewed would
 21 reveal my selection of documents
 22 for her and therefore my work
 23 product.
 24 BY MS. WHITE:

415
 1 time you ever met Mr. Landau?
 2 A. Do I remember? No.
 3 Q. Do you remember the
 4 circumstances of your first meeting with
 5 Mr. Landau?
 6 A. No.
 7 Q. Do you remember what
 8 documents you reviewed to prepare for
 9 your deposition today?
 10 MR. LANDAU: Object to that
 11 question because it calls for work
 12 product and I'll instruct the
 13 witness not to answer that.
 14 Actually, strike that. I withdraw
 15 that objection. You can answer
 16 that question, if you remember or
 17 not.
 18 MS. WHITE: Thank you,
 19 counsel.
 20 THE WITNESS: I don't
 21 remember. I think it was --
 22 MR. LANDAU: No. Only
 23 answer yes or no, whether you
 24 remember or not.

417
 1 Q. What did you do to prepare
 2 for this deposition?
 3 A. I met with my attorney and I
 4 read the documents that were provided to
 5 me.
 6 Q. By whom?
 7 A. By my attorney.
 8 Q. Were you provided any
 9 documents in advance of the meeting with
 10 your attorney?
 11 A. No.
 12 Q. Did you take any documents
 13 home with you to study after meeting with
 14 your attorney?
 15 A. Just what he gave me.
 16 MS. WHITE: I'd ask counsel
 17 to provide me those documents at a
 18 convenient point in time.
 19 MR. LANDAU: I don't think I
 20 have to, but we can take that up
 21 later.
 22 BY MS. WHITE:
 23 Q. Now, does any of that
 24 refresh your recollection about the